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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,387	12/07/2001	Philip H. Spano JR.	DB000972-000	4454

24122 7590 07/16/2004

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EXAMINER

BUTLER, MICHAEL E

ART UNIT	PAPER NUMBER
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3653

DATE MAILED: 07/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/010,387

Applicant(s)

SPANO ET AL.

Examiner

Michael Butler

Art Unit

3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 05 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-8 and 24-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-8 and 24-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 3653

DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action, and apply to this and any subsequent Office Actions.

Election/Restriction

1. Applicant's election of invention I without traverse of the restriction requirement in Paper No. 8 is acknowledged and was previously made final.

Drawings

2. The drawings are acceptable.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4. Claims 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Arnold et al. which discloses:

(Re: cl 27) cabinet with plurality of shelves (Fig 1)
display on shelf having item to be unlocked and quantity of item (c8 L 43-c9 L 16).

Claim Rejections - 35 USC § 103

Art Unit: 3653

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-8, and 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Higham et al. in view of Arnold, with Higham et al. disclosing :

(Re: cl 1, 6) A method, comprising: entering user information into a processor controlling a dispensing cabinet (c16 L 54-64); said processor unlocking certain doors of the dispensing cabinet in response to said user information; choosing a locate mode (fig 10A); identifying an item to be located (fig 10D 4th box; col. 21 L 46-59); flashing a display positioned on a shelf within the cabinet with the number of items held by that shelf which are to be located; logging off; and locking the unlocked doors (abstract; c14 L 30-35)

(Re: cl 2,6) entering patient information. (Fig 18a second box)

(Re: cl 3) the steps of opening one of the unlocked doors, selecting a compartment, entering the number of items taken, and closing the opened door (fig 18a;abstract).

(Re: cl 5, 8). identifying an item to be located includes one of picking an item from a pick list, inputting identifying information with a keypad, and barcode scanning (C28 L 7-33);

(Re: cl 24) unlocking particular doors in response to user information (c14 L 30-35)

(Re: cl 25) logging off, locking doors (c14 L 30-35).

Arnold et al. discloses:

(Re: cl 1, 5,) plurality of shelves in cabinet with processor flashing location of shelf of items and quantity items (c8 L 43-c9 L 16)

(Re: cl 4,7, 26, 27) a locate mode includes choosing from among a dispense, locate, return and restock mode (c8 L 6-65; c8 L 43-c9 L 16);

It would have been obvious at the time of the invention for Higham et al. to be updated to include a plurality of shelves with processor flashing location of shelf items and quantity of items to verify accurate inventory or sufficient inventory as taught by

Art Unit: 3653

Arnold et al. and come up with the instant invention. It would have been obvious at the time of the invention for Higham et al. to be updated to include a selectable locate mode for use in dispensing, restocking, and return of items to accommodate dynamic inventory depletion and replenishment as taught by Arnold et al. and come up with the instant invention.

Response to Amendments

7. The applicant's amendments were effective in removing the anticipatory rejections of Higham et al. and the arguments have been fully considered but they are deemed moot in view of the new elements being present in Higham et als' sister case Arnold et al.. Applicant's amendment were effective in distinguishing over Gilmore in view of Yarin et al. '999 and the arguments have been fully considered but they are deemed moot in view of the new elements being present in Higham et als' sister case Arnold et al..

Art Unit: 3653

Conclusion

8. Applicant's, amendment necessitated the new grounds for rejection, therefore, **THIS ACTION IS MADE FINAL**. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

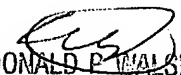
9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exmr. Michael E. Butler whose telephone number is (703) 308-8344.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Walsh, can be reached on (703) 306-4173. The fax number for the Group is (703) 305-7687.

Michael E. Butler

Michael E. Butler
Examiner


DONALD P. WALSH
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